



U.S. Department of Justice

Executive Office for Immigration Review

Office of the General Counsel

5107 Leesburg Pike, Suite 2150
Falls Church, Virginia 22041

June 17, 2019

Matthew Hoppock
MuckRock News
DEPT MR 70200
411A Highland Ave
Somerville, MA 02144-2516

Re: FOIA 2019-29906

Dear Mr. Hoppock,

This letter is in response to your Freedom of Information Act (FOIA) request to the Executive Office for Immigration Review (EOIR) in which you seek e-mails regarding “dummy dates” from 11/13/2018 to 3/4/2019.

Responsive documents are enclosed. Portions of the enclosed documents have been redacted in accordance with 5 U. S.C. § 552(b)(6) to avoid a clearly unwarranted invasion of personal privacy, and/or 5 U. S.C. § 552(b)(5) to protect privileged information. The reason for redaction is clearly marked on each redacted portion.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. *See* 5 U.S.C. § 552(c) (2006 & Supp. IV 2010). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist. *See* <http://www.justice.gov/oip/foiapost/2012foiapost9.html>.

You may contact our FOIA Public Liaison at the telephone number 703-605-1297 for any further assistance and to discuss any aspect of your request. Additionally, you may contact the Office of Government Information Services (OGIS) at the National Archives and Records Administration to inquire about the FOIA mediation services they offer. The contact information for OGIS is as follows: Office of Government Information Services, National Archives and Records Administration, Room 2510, 8601 Adelphi Road, College Park, Maryland 20740-6001, e-mail at ogis@nara.gov; telephone at 202-741-5770; toll free at 1-877-684-6448; or facsimile at 202-741-5769.

If you are not satisfied with my response to this request, you may administratively appeal by writing to the Director, Office of Information Policy (OIP), United States Department of

Justice, Suite 11050, 1425 New York Avenue, NW, Washington, DC 20530-0001, or you may submit an appeal through OIP's FOIAonline portal by creating an account on the following web site: <https://www.foiaonline.gov/foiaonline/action/public/home>. Your appeal must be postmarked or electronically transmitted within 90 days of the date of my response to your request. If you submit your appeal by mail, both the letter and the envelope should be clearly marked "Freedom of Information Act Appeal."

Sincerely,

A handwritten signature in black ink, appearing to read "J. R. Schaaf", with a large, sweeping loop at the end.

Joseph R. Schaaf

Senior Counsel for Administrative Law

From: [McNulty, Sheila \(EOIR\)](#)
To: [Montenegro, Gail \(EOIR\)](#)
Subject: FW: Question about dummy date tomorrow
Date: Thursday, January 31, 2019 11:52:00 AM

Gail,

(b) (5) ...

SMN

From: (b) (6)
Sent: Wednesday, January 30, 2019 7:05 PM
To: McNulty, Sheila (EOIR) <Sheila.McNulty@EOIR.USDOJ.GOV>; (b) (6)
Montenegro, Gail (EOIR) <Gail.Montenegro@EOIR.USDOJ.GOV>
Subject: Question about dummy date tomorrow

Hi Judge and Gail-

We hope you are staying warm. We'd also hope you're enjoying the days off, but I'm sure you would have much preferred to be at work today and tomorrow!

We wanted to address the "dummy date" issue tomorrow. AILA is concerned that hundreds of noncitizens have received NTAs from DHS with "dummy dates" listing 1/31 as a hearing date when no real court date exists. This is problematic generally, but especially given the dangerous temperatures expected tomorrow. We understand that EOIR did not generate these NTAs and that the Court will be providing notice of the closure to people who appear at Court, but that won't be helpful for individuals who drove hours in dangerous temperatures with small children. Could you explain the efforts EOIR took to notify people of the fake 1/31 hearing date that they do not need to travel to court on that day and what notice is present at the building for Respondents who do travel to Court tomorrow, unaware the Court is closed?

We know you have expressed your concern about these NTAs and the Respondents who will unnecessarily travel to Court and thank you for the efforts you have made to deal with this issue.

Thanks,
Kevin and Alix

--

(b) (6)



From: [Daugherty, Daniel J. \(EOIR\)](#)
To: [Kaltenbacher, Teresa A. \(EOIR\)](#)
Subject: RE: Cleared EOIR statement on Placeholder Dates-31 JAN
Date: Thursday, January 31, 2019 11:17:00 AM

Amen!

From: Kaltenbacher, Teresa A. (EOIR) <Teresa.Kaltenbacher@EOIR.USDOJ.GOV>
Sent: Thursday, January 31, 2019 8:14 AM
To: Daugherty, Daniel J. (EOIR) <Daniel.Daugherty@EOIR.USDOJ.GOV>
Subject: RE: Cleared EOIR statement on Placeholder Dates-31 JAN

GM Doc!

I just forwarded same to Rachel and Kodi-my brain apparently hasn't fully returned from furlough. ☺
I wouldn't expect the numbers showing up to be much different than Denver-or am I mistaken?
Some courts will be a mess today-especially since some remain closed b/c of weather.

(b) (5)
[Redacted]
[Redacted]
[Redacted]

TK

From: Daugherty, Daniel J. (EOIR) <Daniel.Daugherty@EOIR.USDOJ.GOV>
Sent: Thursday, January 31, 2019 9:08 AM
To: Kaltenbacher, Teresa A. (EOIR) <Teresa.Kaltenbacher@EOIR.USDOJ.GOV>; Burke, Jason (EOIR) <Jason.Burke@EOIR.USDOJ.GOV>; Overton, Fayne (EOIR) <Fayne.Overton@EOIR.USDOJ.GOV>
Subject: RE: Cleared EOIR statement on Placeholder Dates-31 JAN

Way better than last time!

Best regards,

Daniel "Doc" Daugherty
Assistant Chief Immigration Judge
Las Vegas, Salt Lake City, Denver, Aurora
New York City, Varick St., Ulster, Fishkill
110 North City Parkway, Suite 400
Las Vegas, Nevada 89106-0000

(b) (6)
[Redacted]
Daniel.J.Daugherty@usdoj.gov

From: Kaltenbacher, Teresa A. (EOIR) <Teresa.Kaltenbacher@EOIR.USDOJ.GOV>

Sent: Thursday, January 31, 2019 8:04 AM

To: Daugherty, Daniel J. (EOIR) <Daniel.Daugherty@EOIR.USDOJ.GOV>; Burke, Jason (EOIR) <Jason.Burke@EOIR.USDOJ.GOV>; Overton, Fayne (EOIR) <Fayne.Overton@EOIR.USDOJ.GOV>

Subject: Cleared EOIR statement on Placeholder Dates-31 JAN

Good Morning!

Denver IC seems to be in good shape (comparatively speaking) on the DHS issued placeholder dates and the number of respondents who may show up for a hearing today that isn't on our dockets.

Here is a cleared statement that can be used for any stakeholders/media inquiring. As always, please forward media inquiries directly to me.

Thanks, and have a good one.

TK

Attributable to the Executive Office for Immigration Review:

On Thursday, Jan. 31, 2019, the Executive Office for Immigration Review (EOIR) was unable to proceed with hearings for some respondents who believed they had hearings scheduled on that date. In some cases, the cases had been rescheduled to another date, but the lapse in appropriations prevented the immigration courts from issuing new hearing notices far enough in advance of the prior hearing date. In other cases, EOIR did not receive the Notice to Appear (NTA) in a timely manner. Immigration proceedings do not commence until the Department of Homeland Security (DHS) has filed an NTA with an immigration court. Consequently, even if a hearing time and date has been provided to a respondent on an NTA, the hearing cannot go forward until the NTA is actually filed with an immigration court. Finally, weather-related closures at many courts on Jan. 29 and 30 also impeded EOIR's efforts to process and prepare cases scheduled for Jan. 31.

As EOIR announced on Dec. 21, 2018, all three DHS components with responsibility for issuing NTAs now have access to its Interactive Scheduling System (ISS), and it will no longer provide dates to DHS outside of ISS for scheduling initial non-detained hearings. Accordingly, EOIR does not expect any further recurrence of this type of situation.

For additional information, please see [EOIR Policy Memorandum 19-08](#). All individuals who have been served an NTA with a hearing date and time on it are encouraged to contact EOIR's Automated Case Hotline at 1-800-898-7180 for up-to-date information on case status. If no information is found concerning a correctly-entered alien registration number and the scheduled hearing is less than 10 calendar days away, the individual is encouraged to contact the DHS office that issued the NTA or the relevant immigration court.

Terri Kaltenbacher (TK)

Regional Public Information Officer (Mountain West)
Communications and Legislative Affairs Division
Executive Office for Immigration Review
U.S. Department of Justice
303.291.3159

www.justice.gov/eoir

Twitter and FB @DOJ-EOIR